

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 4, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 4, 2016 at 1:35 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis; Vice Chair; John Dailey; Bill Ellison; David Foster; Joe Johnson (Out @3:25 p.m.); Debra Miller Stevens; Bill Ramsey (Out @3:35 p.m.); John Todd and Chuck Warren. Members absent were: Bob Dool; Matt Goolsby; John McKay Jr.; and Lowell Richardson. Staff members present were: Dave Barber, Advance Plans Manager; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the June 16, 2016 Planning Commission Minutes.

MOTION: To approve the June 16, 2016 Planning Commission minutes.

JOHNSON moved, **TODD** seconded the motion, and it carried (6-0-4). **DENNIS, ELLISON, RAMSEY, WARREN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00011: One-Step Final Plat – KANSAS HYDROGRAPHICS ADDITION**, located on the north side of East 47th Street South, west of South Woodlawn Boulevard.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is designated as “Wichita Urban Growth Area” by the Community Investments Plan 2015-2035. The site is located within the Air Force Base Protection Overlay District (AFBP-O).

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.

- E. County Public Works has approved the applicant's drainage plan.
- F. The plat proposes two openings along 47th Street South and complete access control along the east 100 feet of old 47th Street South. County Public Works has permitted one opening along old 47th Street South west of the 100 feet of complete access control. Access controls along 47th Street denote 400 feet of complete access control from the intersection of old 47th Street to the first entrance.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The plat's text shall note the dedication of the street to and for the use of the public.
- I. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. A written response from McConnell Air Force Base is needed regarding their comments on the plat. On April 19th, McConnell informed Staff they would like additional time to evaluate the proposal and stated their biggest concerns are security issues and status of the facility should it change ownership. The applicant has increased the setback to 20 feet between the two properties and platted this setback to address security concerns.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- S. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- T. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

NEIL STRAHL, PLANNING STAFF stated that the plat was approved by the Subdivision Committee in April. He said item J. required a written response from McConnell Air Force Base on the plat since it abuts the base. He referenced McConnell's response regarding the setback and their requirement of a 250 foot boundary barrier in addition to a 100 foot setback. He said the UZC only requires a 15 foot setback but in an effort to compromise, the applicant increased the setback to 50 feet as shown on the site plan. He said McConnell said they do not intend to object to the plat with the 50 foot setback; however, they wanted the applicant to be aware of the considerable noise from the jet blast generated from their aircraft. He said they did not want to deal with any possible future complaints in that regard. He said they requested that language be added regarding jet blasts and noise. He said the applicant agreed to that.

WARREN referenced the letter from McConnell Air Force Base with regard to the fact that they have no legal basis for requesting denial. He mentioned that the Planning Department should take into consideration the mission of new tankers. He said he is concerned about the close proximity of the zone change to the runway.

CHRIS BOHM, RUGGLES & BOHM, AGENT FOR THE APPLICANT said this is a triangular shaped piece of ground. He said they will have approximately 550 feet clearance. He said the applicant respects the proximity of McConnell Air Force and their presence to the community.

WARREN commented that McConnell is not going to say they have a problem with this because they don't want to interfere with the local community. He said he would rather buy the owner out and have them find another location rather than take the risk of jeopardizing the mission of McConnell Air Force Base. He said he thinks that is a minor consideration compared to what the community can lose.

DENNIS said he imagines flight safety looked at this and signed off that it will not impact them. He said he did not believe McConnell would have signed off on this if it had not been approved by flight safety.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **FOSTER** seconded the motion, and it carried (9-1). **WARREN** – No.

2-2. SUB2016-00018: One-Step Final Plat – FOSSIL RIM COMMERCIAL ADDITION,
located on the southeast corner of 29th Street North and Tyler Road.

NOTE: This is unplatted property located in the City. The Fossil Rim Commercial Community Unit Plan (CUP2016-00015, DP-340) was approved for this site.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests a petition for extension (mains and laterals) of sanitary sewer and City water services.
- B. The platlor's text references drainage easements which are not reflected on the face of the plat.
- C. The platlor's text references drainage and utility easements which are not reflected on the face of the plat.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. City Stormwater Management advises the drainage plan has been approved.
- F. Traffic Engineering has approved the access controls. The plat proposes two openings along Tyler and two openings along 29th Street North.
- G. Traffic Engineering has requested a guarantee for left turn center lanes and right turn decel lanes to all full movement approaches.
- H. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.

- I. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The Applicant needs to request a CUP adjustment as the CUP parcel boundaries do not correspond with the area being platted and access controls need adjusted.
- M. The wall easement shall be referenced in the plat's text.
- N. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- O. The Register of Deeds Certificate shall include Judy J. Paget as Deputy.
- P. The applicant shall verify that only Craig A. Kreiser, as co-trustee, can sign for the trust.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- S. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- V. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- AA. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- BB. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **ELLISON** seconded the motion, and it carried (10-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2016-00028: City request to vacate portion of a platted setback on property,**
generally located northwest of 55th Street South and Broadway Avenue.

APPLICANT/AGENT: Mike Love Construction Inc., Mike Love (owner) Ruggles & Bohm,
P.A c/o Will Clevenger (agent)

- LEGAL DESCRIPTION:** Generally described as the inside 5 feet of the platted 25-foot front yard setback of Lots 1-6, Block D & Lots 43-49, Block C, all in the Rivendale Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located north of East 55th Street South, west of South Hydraulic Avenue on both sides of Victoria Street (WCC #III)
- REASON FOR REQUEST:** More room to build
- CURRENT ZONING:** Site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential.

The applicant proposes to vacate the inside 5 feet of the of the platted 25-foot front yard setback of Lots 1-6, Block D & Lots 43-49, Block C, all in the Rivendale Addition. All of the subject lots are zoned SF-5 Single-Family Residential. The Unified Zoning Code's (UZC) minimum front yard setback standard for the SF-5 zoning district is 25 feet. If the setbacks were not platted the applicant could have applied for an Administrative Adjustment that would have reduced the SF-5 zoning district's 25-foot front yard setback by 20% resulting in a 20-foot setback. The applicant's request does not exceed what is permitted by an Administrative Adjustment. There is a platted 20-foot easement in the described portion of the vacated front yard setback on Lots 1-6, Block D that will remain in effect. There appears to be a sewer line and manhole, a hydrant and perhaps a water valve located in said easement. Westar has street lights located in the Victoria Street right of way between Lots 4 and 5, Block D and in front of Lot 49, Block C; condition # 2 covers Westar. The applicant does need to maintain proper clearance, per the Westar Service Standards. Heide Bryan is the Westar contact for this vacation request and can be reached at 261-6554. The Rivendale Addition was recorded with the Register of Deeds October 30, 2003.

NOTE: At the time the vacation request was filed the application stated that the subject properties were zoned SF-5. Subsequently a zone change was filed for TF-3 Two-Family Residential zoning on the subject lots; ZON2016-00032, which will be considered at the August 4, 2016, MAPC meeting. The UZC's minimum front yard setback standard for the TF-3 zoning district is the same as the SF-5 zoning district, 25 feet. The change in the zoning does not change the reduction of 5 feet as requested by the applicant.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Stormwater, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted front setbacks on multiple lots.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 14, 2016, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by vacating the described portion of the platted front setbacks on multiple lots and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the inside 5 feet of the of the platted 25-foot front yard setback of Lots 1-6, Block D & Lots 43-49, Block C, all in the Rivendale Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the inside 5 feet of the of the platted 25-foot front yard setback of Lots 1-6, Block D & Lots 43-49, Block C, all in the Rivendale Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.

- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

WILL CLEVINGER, RUGGLES & BOHM, AGENT FOR THE APPLICANT commented that several of the plats were platted unusually narrow and because of that, it is difficult to fit buildings on the lots. He said that is why they are requesting the setback vacation to make the lots more buildable. He said they are in agreement with staff comments.

CONNIE DAVIS GOFF, 5434 S. VICTORIA STREET said she does not understand what they are talking about as far as a setback. She said the area is platted single-family and it does not seem like there is enough area to put duplexes. She commented that they have attempted to contact the City regarding mowing in the area and that she and her husband have been doing it themselves because the City does not respond.

WARREN explained that a setback is simply how close the building can be built to the street whether it is single-family or multi-family.

DEANA WEISHAAR, 5412 S. PATTIE said if the neighborhood is not happy with the zoning that is being proposed and the Commission is voting on something already, she thought that was out of place. She said she does not understand how this all takes place. She said they don't want the setbacks to be any different from the rest of the area. She also asked why the rest of the community wasn't notified. She said she was aware of the 200 foot notification requirement, but added that this affects the entire community. She said the value of their homes has gone down already and they cannot afford anymore devaluing of their homes.

ELLISON asked the speaker to explain how their homes were devalued and what they feel caused that.

WEISHAAR briefly explained that when they moved into the area, there were covenants and it looked like the area was going to be kept up so their homes would keep their value which is why they moved into the area. She said the covenants expired and the area now looks crappy all the time. She said they don't know who the developer is anymore. She said recent appraisals have gone down and homes that were originally \$300,000 are now selling for \$187,000. She said this proposed multi-family will also devalue their property.

TODD commented that the setback will make it more buildable for single-family.

CHAIR NEUGENT asked staff to respond to the speaker's questions about processing the applications.

LONGNECKER commented that the vacation and rezoning cases happened on the same closing date which brings them both to this meeting for review. He commented that the neighbors have two weeks after this hearing to protest the vacation if they do not want the 20% reduction in the setback regardless of what happens on the zoning case. He said the lots are over 6,000 square feet in size so they are adequate for either single-family or two-family residential zoning.

TED WEISHAAR, 5412 S. PATTIE said the covenants are there but just not enforced. He said this area is platted for single-family dwellings so they feel it would be better for homes to be built on these lots.

CLEVENGER said some of the lots are deep and that is why it is helpful to have the setback reduction to make the lots more buildable.

WARREN said the problems in the area go back to when it was developed. He said the requested setback will make it more likely that the properties will be developed.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **TODD** seconded the motion, and it carried (10-0).

3-2. VAC2016-00029: City request to vacate a platted utility easement on property,
generally located north of 37th Street North on the west side of Ridge Road.

<u>CASE NUMBER:</u>	VAC2016-00029 - Request to vacate a platted utility easement
<u>APPLICANT/AGENT:</u>	37 th & Ridge Development Co. LLC, c/o Mike Boyd (owner) Baughman Co., PA, c/o Phil Meyer (agent)
<u>LEGAL DESCRIPTION:</u>	Generally described as vacating the platted 20-foot wide by 220.06-foot long platted utility easement located on the common lot line of Lots 4 & 5, Block A, Northridge Plaza Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located north of W 37 th Street North on the west side of North Ridge Road (WCC V)
<u>REASON FOR REQUEST:</u>	Development over unused easement
<u>CURRENT ZONING:</u>	The site, all abutting and adjacent properties are zoned LC Limited Commercial

The applicant requests the vacation of the platted 20-foot wide by 220.06-foot long platted utility easement located on the common lot line of Lots 4 & 5, Block A, Northridge Plaza Addition. There are no public utilities located within the subject easement. Westar has no equipment located in the subject easement; conditions # 2 and #3 covers Westar. The applicant does need to maintain proper clearance, per the Westar Service Standards. Richard Aitken is the Westar contact for this vacation request and can be reached at 261-6320. The Northridge Plaza Addition was recorded June 4, 2002.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 14, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00029 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters/confirmation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00029 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00029 proceeds to the City Council for final action.

- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00029 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters/conformation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00029 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00029 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **RAMSEY** seconded the motion, and it carried (10-0).

- **3-3. VAC2016-00030: City request to vacate a portion of a platted alley**, generally located north of Pawnee Avenue on the west side of Hillside Avenue.

CHAIR NEUGENT reported that the item was deferred.

- **3-4. VAC2016-00031: City request to vacate a portion of a platted alley**, generally located south of Douglas Avenue on the east side of Poplar Street.

CHAIR NEUGENT reported that the item was deferred.

PUBLIC HEARINGS

- 4. Case No.: ZON2016-00032** - Mike Love Construction (owner) Will Clevenger, Ruggles & Bohm (agent) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential for 13 lots on Victoria Street on property described as:

Lots 43, 44, 45, 46, 47, 48 and 49, Block C AND Lots 1, 2, 3, 4, 5 and 6, Block D, Rivendale Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on either side of Victoria Street, immediately north of 55th Street South.

The subject site is located within the SF-5 zoned Rivendale Addition. The Rivendale Addition is partially developed with single family residences adjacent to the subject property to the north, west, and east. Immediately east and west of the subject property are single family residences on large, unplatted lots. South of the subject site is unplatted SF-5 zoned tracts developed with mobile homes.

CASE HISTORY: The site is located within the City limits of Wichita and consists of 2.73 acres of the Rivendale Addition platted in 2003.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residential, undeveloped (Rivendale)
SOUTH: SF-5	Single-family residential, unplatted lots
WEST: SF-5	Single-family residential, unplatted lot
EAST: SF-5	Single-family residential, unplatted lot

PUBLIC SERVICES: The site has access to local, paved collector streets that access East 55th Street South, a paved, two-lane arterial with 90-foot right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the South Wichita/Haysville Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The site is located in the South Wichita/Haysville Area Plan, which identifies the location for residential development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is zoned SF-5 and is partially undeveloped. Properties immediately to the west, east and south are developed with single-family residences. The proposed duplexes are located within a stand-alone block at the entrance of the subdivision and are only adjacent to the rear of lots developed with existing single-family residences.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and is undeveloped. As zoned, these units would have to be single-family. With the proposed zoning, they could be single-family or duplexes.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Single-family residences have only partially developed in the Rivendale Addition and the proposed duplexes are in a separate portion of the subdivision. This separation should mitigate any detrimental effects on nearby property.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The South Wichita/Haysville Area Plan identifies the area as appropriate for residential development.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

WILL CLEVENGER, RUGGLES & BOHM, AGENT FOR THE APPLICANT commented that the area was platted back in 2003 and the area they are requesting the zone change on has been vacant since that time. He said the area has never been finished and they believe the downturn in the economy stopped construction. He said his client would like to make an investment in this area and make the site more buildable so it is not sitting vacant, overgrown and not maintained.

WARREN asked about the applicant's construction timeframe and the square footage of the buildings.

CLEVINGER said he did not know about the timeframe but he understood the buildings would be approximately 1,800 square feet but he was not sure if that was per building or unit.

JOHNSON clarified that they intended to build a duplex on each lot.

CLEVINGER responded yes.

DAILEY commented that it was important to know whether it was 1,800 square feet per building or unit.

CLEVINGER said he has pictures of similar buildings that are 3,600 square feet per building. He said the units have a finished basement and upstairs.

WARREN asked if it was possible that a PO could stipulate a minimum building square footage.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said only if the applicant agrees to it. He said the Commission can't force the applicant to build a building of a certain square footage.

MORGAN reported that DAB III deferred the item because they wanted elevations and information on what type of building materials would be used. She said they will rehear the item on Wednesday, September 7, 2016.

CONNIE DAVIS GOFF, 5434 S. VICTORIA STREET said she doesn't understand how this can go through zoning when they don't know what is going on in their neighborhood.

MOTION: To defer action to the October 6 Planning Commission meeting until they get the results of the DAB Meeting.

JOHNSON moved, **DAILEY** seconded the motion.

WARREN asked if there were any other issues besides the DAB hearing that the Commission needed information on.

FOSTER said he would like to hear the rest of the public to see if there are any additional items that need to be addressed and the applicant's rebuttal before a vote was taken.

The **MOTION** to defer was withdrawn.

LEWIS HUEBLER, 1421 E. 55TH STREET SOUTH said he owns the 10 acres south across the road and has lived there since 1978. He said the whole area is relatively new and he was thrilled when development started because he thought it would be an upgrade for the neighborhood. He said as soon as development started property values went up. He said that was until the economy went to pot all over the United States which is what happened in this area. He said he could tolerate high-grade duplexes. He said he was going to divide up his 10 acres once this development was completed. He said he would like to see the duplexes to see exactly what is being proposed. He said they might be willing to support it. He said they do not want this to become another low-income neighborhood.

ELLISON asked if the neighbors requested a meeting with the owner of the proposed new development.

HUEBLER said it was not his responsibility to request a meeting. He said if the owner has opposition to his proposal it should be his duty to get a hold of the neighbors and tell them what the plan is. He said he would be more than happy to attend a meeting with him.

DEANA WEISHAAR, 5412 S. PATTIE said she is concerned that if they can't construct single-family homes how are duplexes supposed to be constructed on these properties. She commented that the rest of the community was not notified and that a neighbor told her about this meeting. She said this area started out with very nice homes that depreciated immensely. She said with all the empty lots once multi-family gets started it will open the door to more of it which will then deplete the value of their homes even more. She said they do not want low-income in the area. She said she is not in favor of that and doesn't believe the Commissioners would be either if this were it to come into their neighborhoods. She said this breaks her heart because this could be a beautiful area.

TED WEISHAAR, 5412 S. PATTIE said he did not believe it was possible to get an 1,800 square foot duplex and reduce the setback on the lots. He commented that the new owner hasn't even mowed so that does not leave a good impression with him. He said he does not think this type of development is a good idea because once it is started that opens up the door for more of it which will lower home values in the neighborhood. He said there is no way to keep the duplexes maintained because people do not have ownership. He said they do not want low income and would like to see rent ranges for the proposed duplexes.

JOHNSON encouraged the neighbors to attend the District Advisory Board meeting on Wednesday, September 7, 2016.

CLEVINGER stated that Mike Love does own the property. He said they will be attending the DAB meeting on September 7 and now that they are aware of the neighbor's concerns, they will put forward the effort to provide site plans, elevations and pictures of exactly what is being proposed.

TODD asked about the restrictive covenants on the property.

DAILEY asked that the DAB also be provided the square footage for each side of the duplex.

CLEVINGER said he would get additional information on the specifics of what is being planned.

MOTION: To defer the item until the October 6, 2016 Planning Commission Meeting.

JOHNSON moved, **DAILEY** seconded the motion (10-0).

5. **Case No.: ZON2016-00033** - Green Vision Developer, LLC (owner) and Baughman Company, PA, Russ Ewy, (agent) request a City zone change on 23.2 acres from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

All of Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48, Block A, TOGETHER with all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block B, TOGETHER with all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, Block C, TOGETHER with all of Reserves "A", "B", "C", "D", "E", "F", and "G", all as platted in Castlegate Addition, Wichita, Sedgwick County, Kansas

BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 23.2 acres of Castlegate Addition. The applicant proposes to build duplexes existing platted lots on the subject property.

West of the subject site is a 79- acre tract zone SF-20 developed with a single-family residence with associated agricultural land. North of the subject site is SF-5 zoned 2nd & 3rd Buckhead Addition developed with single-family residences. Property east of the subject site is SF-5 zoned Country Meadows West Addition developed with single-family residences. Immediately south of the subject property are three single-family residences zoned SF-5 that front Central and a vacant lot zoned MF-18 on west side of Firefly. South of the subject property, across Central, is SF-5 zoned Bay Country Subdivision partially developed with single family residences.

CASE HISTORY: The site is located within the City limits of Wichita and consists of 23.2 acres of the Castlegate Addition, which was recorded June 9, 2014.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residential
SOUTH: SF-5; MF-18	Single-family residential, partially developed land
WEST: SF-20	Agriculture
EAST: SF-5	Single-family residential

PUBLIC SERVICES: The site has access to local, paved collector streets that access West Central Avenue, a paved, four-lane arterial with 110-foot right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a predominately SF-5 zoned single-family residential neighborhood. Single-family residences are located to the north, east and south of the Castlegate Addition. The proposed duplex development will be separated from existing single-family developments and will have a separate entrance and does not share any street access with surrounding single-family neighborhoods.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** TF-3 zoning would allow single-family residences and duplexes to be built, which is an appropriate use for urban residential development. The proposed duplex development is separated from adjacent single-family neighborhoods, which should mitigate any detrimental effects on nearby property.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. There is TF-3 and MF-18 zoning within one-quarter mile of the subject site.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as parks, schools and churches.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and idle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. As such, the TF-3 zoning within the Castlegate Subdivision conforms to the future growth concept prescribed by the Community Investment Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report. She referred to the DAB V Memorandum and reported that the DAB recommend denial of the application 6-1-1.

WARREN asked about the locations of the entrances and exits.

MORGAN commented that the main entrance into the development will be off of Central Avenue; however, there will be a secondary access on Cindy Street.

TODD asked when the area was platted.

MORGAN said it was platted in 2014 as single-family patio homes.

TODD asked why it was platted one way and not completed; what was the reason for that.

MORGAN commented that the previous property owner passed away so the property has been in limbo for about two years while they tried to find another developer for the property.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, AGENT FOR THE APPLICANT commented that **JUSTIN COOK, AGENT FOR THE DEVELOPER** was also present to answer questions. He said the property is still in a family trust and they have been working with various developers over the last two years to bring Mr. Ketzner's vision for the property to life. He said none of the developers were able to make the financials work with single-family patio homes which is why they are seeking two-family residential zoning under a new developer who has done this type of development throughout the Midwest region.

EWY said last week they met with the HOA Board to apprise them of what was being proposed and get their feedback. He said at the DAB meeting neighbors expressed the same concerns they received from the HOA Board and coincidentally like the Commission just heard on the previous zoning case. He said one of the items mentioned at the DAB meeting, which he didn't know what it had to do with land use, was this developer's track record.

EWY said they had a small slide presentation. He said the units would be 1,200 square feet on each side or 2,400 square feet per building. He said they are proposing 74-75 duplex lots. He said currently the area is platted for 80 single-family residential patio homes. He said the existing plat is lotted out at approximately 6,500 square feet for each lot. He said Trinity (the Contract Purchaser) has developed similar developments, townhome, multi-family and apartment developments in Oklahoma, Arkansas and Kansas. He said this property has been vacant for almost two years and is in a state of disrepair. He said the streets are graded and there is water and sewer on the southern half of the property and the stormwater system is completely in ground. He said currently the property is an eye-sore with a lot of capital in the ground. He referred to pictures of some of the developer's developments. He concluded by saying that they are in agreement with staff comments.

JUSTIN COOK, 6515 ZERO ST., FT, SMITH, ARKANSAS.

FOSTER commented on the evolution of high density housing. He mentioned economics and asked what other factors besides simply dollars go into making that decision.

COOK referred to a slide regarding the driving forces for development including demographics, economics, and preferences. He said baby boomers are downsizing while millennials are moving out of their parents homes. He said the average workers changes jobs seven times throughout their career so mobility and not being tied to a mortgage is important. He said the 2008 mortgage collapse has shaken the idea of home ownership as an investment in some people's eyes. He said the final factor is ease of lifestyle and not having to worry about maintenance and upkeep on a property.

FOSTER asked if Trinity was going to be managing the property.

COOK responded yes, Trinity owns and operates approximately 8,000 multi-family units in the tri-state area. He said they provide on-site management.

JOHNSON clarified the units would be for rent, not for sale.

COOK said they will be rental units.

TODD asked if this development would include any subsidized Section 8 rentals.

COOK said some of their portfolio is subsidized housing; however, this particular development does not meet that type of criteria.

ED GERSTENKORN, 926 N. FIRELFY said his home is located north of this proposed development. He said 30 plus people at the DAB meeting said they did not want the zoning change. He said he and his wife have lived in their home 13 years and they want to make sure the community goes up rather than down. He said they learned once housing values go down, upper end developers leave and small low end developers go in. He mentioned the recommendation in the Staff Report to proceed with the plan although the neighbors don't want it. He said it was portrayed as a no lose situation because it would generate extra taxes but it didn't mention the loss in home values for the people who have paid taxes over the last 10 years in that community. He said that should be taken into account. He said another of his concerns is this is a business when you build a group of duplexes. He said it is not a home and you don't have home pride and spend time and money on it. He said if the management company finds out they can cut a corner and do maintenance half as often, that is what is going to happen. He said Bay Country Street is a single-family development and you can barely find a place to park because of the density of the homes. He said he does not feel the zoning change is wise for the City or the neighborhood.

WARREN commented that the area is platted now as high density single-family patio homes. He asked why the speaker thinks home values will drop if this goes to multi-family.

GERSTENKORN said it is high density but they were upper end home patio homes with granite countertops, not Formica countertops. He said they are concerned about the quality of the development.

ROY BATY, 12601 WEST BIRCH said his home backs up to this property. He said he has lived there almost 15 years. He commented that there was a protective overlay in the area and when he was doing his research he found that it was to insure compatible development that it is appropriate to the neighborhood and minimize any devaluation of surrounding property. He said he is going to have duplex rental properties right out his back door. He said he has no problem with someone wanting to do something with their property until it affects his property. He said that PO was put there for a reason. He said the area is single-family dwellings and he is also concerned about Section 8 housing. He concluded by asking what happens if the property gets sold. He said he would like something in writing that says Section 8 housing will never happen in that development if that is possible.

DAN BLASI, 12500 WEST CENTRAL said he owned half of this 22 acre site some 50 years ago. He said if apartments go in at this location there is no way it is not going to run their property values down. He asked about putting up a fence or wall to help protect the neighbors. He also asked how much money the developer is going to spend on the development. He said he sold the ground because he was told what was going to be built (the patio homes). He said if they offered this proposal, he would still be farming it. He asked the Commission to take into consideration that the neighbors have been there a while and they take pride in what they have.

LANCE THOMPSON, 12609 WEST BIRCH, PRESIDENT, DEERGLLEN HOMEOWNERS ASSOCIATION said he wanted to be clear that it was not concern expressed by the surrounding homeowners at the previous meeting, it was outrage. He said the neighbors do not want this to happen. He said the previously proposed patio homes were supposed to cost between \$250,000 to \$300,000, be individually owned and managed by a property management company. He said that is a long way from a duplex. He added that originally they were talking about 84 homes and now it is 150 homes. He said that is doubling everything that is going in there. He said he has no studies about property values but asked the Commission if they would move in next door to a duplex. He said he lives on the north boundary of this. He said he believes the agent is sincere and that they have great intentions of taking care of the property, but he asked how long are they going to own this property. He said the neighbors are in this for the long haul. He mentioned the duplex communities at 13th and Tyler. He said they moved into a covenant community and the Board tries to enforce those rules. He said they object to development of high occupancy, multi-family dwellings right outside their door. He said personally he understands that the heirs want to get rid of this and that the City wants to get it developed but he is extremely horrified by this notion. He asked about the notification area and alleged that no one in Bay Country was notified. He said he did not want to discuss what happened at the DAB meeting but he said they ruled that this proposal not continue and he hoped the Planning Commission did the same.

JOHNSON asked staff to respond to questions regarding notification of surrounding property owners.

LONGNECKER commented that the title company provided the names and addresses of property owners within 750 feet of the property as required by law.

WARREN asked that the speakers not repeat issues.

JOHNSON (Out @3:25 p.m.)

JERRY MACINTIRE, 937 N. FIRELFY said he was talking with the Vice President of Bay Country and was told the subdivision was totally unaware of this but he noticed that the Vice President from Bay Country was at the meeting. He said homes in the area run anywhere from \$190,000 to \$275,000. He said he doesn't feel he has to sacrifice the value of his property to bail someone out of an investment. He said the patio homes and assisted living center originally proposed for this area would have been a perfect fit. He said these duplexes with no covenants does not fit. He also asked what happens 5-10 years down the road if this gets sold.

DELBERT ALT, 829 N. BAY COUNTRY said he has a big stake as far as his property values are concerned. He said he has lived in the area since 1998 when the properties were developed and he and his wife located there because it is in the Goddard School District and because the property values in the area were so high. He said he totally opposes having anything other than patio homes or single-family dwelling in this area for the same reasons that have been stated by other speakers. He also said he is concerned about the density of traffic on Cindy Street with 150 units being added in the area instead of the originally proposed 84.

RAMSEY (Out @3:35 p.m.)

DEB MOLACEK, 817 N. BAY COUNTRY said her backyard will be directly adjacent to the property. She said this proposal was an insult and not the original vision of the owner who was a reputable builder who wanted to do better than what is being proposed. She said she doesn't know anything about the developer Trinity but on her Internet search she found complaints about the way their property is managed. She said it is a gross understatement to say she doesn't want this in her backyard. She said to say they are not sure this will affect their property values is ridiculous. She said her property has gone up in value since she has lived there the last 13 years.

SERITA THEIS, 12610 W. CENTRAL AVENUE said the area has changed in the last 50 years because it used to be pure country. She said now there are homes everywhere and now she is going to have rentals behind her, which upsets her. She said she sold 10 acres to the previous developer for a gated community with limited access and a wall all the way around it. She said she would like to see pictures of Trinity rental communities that have been there for at least 10 years and talk to the people who live there and some of the neighbors. She said she does not want to see this development behind her and is very opposed to this unless they put up a fence.

WILLIAM STARNES, 12609 HARDTNER CIRCLE said just for the record he lives within 750 feet of this location and was not notified. He said the problem with rentals is there is no pride in ownership and the management companies are off site and out of state. He proposed that another notice be sent to Bay Country about the proposed changes.

WARREN asked what the procedure is if it is determined that the legal notification is in error.

VANZANDT said this meeting will be voided, property owners will need to be renoticed and the Planning Commission public hearing process will be done again.

CHARLES MAY, 12502 WEST BIRCH said he has the same concerns that have been stated. He said the TF-3 area in yellow on the map consists of only seven duplexes. He said most of that area is single-family residential so it isn't similar to what is being proposed. He mentioned other developments on the Trinity web site that do not look like the ones shown in the presentation. He said some of them are somewhat run down. He said he is opposed to rezoning of the area.

JOHN FLEICHMAN, 725 N BAY COUNTRY said he is definitely against this for a few reasons. He said realtors know the pulse of the community and when they bought into this area in 2000 they were advised not to buy near duplexes because property values around those types of developments generally don't go up. He commented that Section 8 housing was brought up at the DAB meeting and the representative did not say Trinity had Section 8 in any of their developments. He said Trinity has no vested interest in the area because they are an out of state company. He said he is also concerned about density and traffic and children in the area. He said the original proposal for this area was a high end retirement gated community. He said going from that to a duplex which doubles the amount of living facilities and cars is a major safety issue.

EWY said undoubtedly duplex zoning is the steepest hill to climb to get a zone change. He said the saving grace from their side of the debate is the Commission has other considerations than neighborhood opposition. He said there will be neighborhood opposition each and every time duplex zoning is requested. He said there is an ingrained perception of what duplexes mean and said a lot of those fears are unfounded. He said the units will be for lease; however, the same could be said of the patio homes so he feels the rental argument is a shallow one, in his opinion. He said the density issue is relevant from a traffic stand point and they feel the primary exit from the development would be onto Central Avenue. He added that Bay Country is a public road.

MOTION: To allow the speaker 30 more seconds.

TODD moved, **WARREN** seconded the motion.

EWY said he is asking the Commission to step back from the passions of the property owners who have spoken here today and review this request as they do every zoning case using the Nine Golden Factors and ask themselves, besides neighborhood opposition, is this an appropriate land use for this location.

WARREN asked about proposed buffering and fencing.

EWY said that was discussed at the meeting with the HOA Board. He said they wanted a masonry wall. He said the applicant would like to provide a wooden screening fence and landscaping as a buffer. He said most of the homes in the area have wooden fences. He said he does not believe a screening plan would persuade any of the neighbors from dropping their opposition to the proposal.

FOSTER asked about the covenants on the land and what happens when the zoning is changed.

VANZANDT said the covenants run with the land regardless of the zoning. He said covenants can be difficult to enforce and are a civil matter.

FOSTER asked if a traffic analysis study had been done.

EWY said traditionally agents don't deal with trip generation unless the development is large scale such as 30 plus acres and generates commercial or industrial traffic. He said Planning Staff has never required a traffic impact analysis on this type of development.

DENNIS said he has been concerned about this development for some time and drives by the mounds of dirt and weeds next to Central Avenue and the uncompleted sidewalk, and said this needs to be fixed. He said he has a problem with the solution that is being proposed. He said nothing in the Golden Rules talks about "not in my backyard." He said what they do talk about is the character of the neighborhood. He said Bay Country is a crowded cul-de-sac. He said adding traffic from Cindy Street into the mix will make the area practically inaccessible. He said this type of development in this area does not fit the character of the neighborhood and he feels is not suitable.

MOTION: To deny the application.

DENNIS moved, **TODD** seconded the motion.

TODD said he thinks the concerns of the neighborhood are justified because they were promised high-end, owner-occupied homes, not a commercial venture with out of state ownership.

WARREN said he has lived in a duplex more than half of his adult life. He said a lot of new subdivisions are mixed developments of nice houses and nice duplexes. He said he has been in residential real estate since 1978 and has not found property devaluation based on zoning or density, it is based on quality and property maintenance. He admitted that some multi-family properties are not well maintained and that can have a negative effect on surrounding property values. He said he has also seen the opposite happen, where single-family residences are not maintained.

There was brief discussion concerning the vote. It was agreed that a simple majority of the members present was enough to forward the recommendation to the City Council.

The **MOTION** to deny carried (7-1). **WARREN** – No.

6. **Case No.: CON2015-00029** - Homer Morgan Revocable Trust, c/o Homer Morgan trustee (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use permit for a Tavern and Drinking Establishment and Entertainment Establishment and Nightclub in the City within 300 feet of residential zoning on property zoned LC Limited Commercial on property described as:

Lot 11 EXCEPT the North 105 feet and EXCEPT a tract beginning 273 feet North of the Southeast corner, thence West 280 feet, thence South to the Southwest corner, thence Easterly to the Southeast corner, thence North to the point of beginning, Block B; South Broadway Gardens 2nd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site is located south of West 43rd Street South, on the west side of South Broadway Avenue. Currently the 2,670-square foot one-story building (built 1949 and 1987) is occupied and advertises itself as BC's Bar and Grill. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. SF-5 Single-Family Residential (SF-5) zoned properties abut the west side of the site. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However, the applicant has stated that the site has for 30 continuous years been either a tavern, drinking establishment or nightclub. The site's liquor license is current. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC.

The applicant's site plan is an aerial. The aerial does not show marked parking spaces, but there is paved parking on the east side of the site as well as along portions of the north and south sides. There is also a gravel area located behind the building on the west side of the site. A single-wide manufactured home is located west of the gravel area. This manufactured home is located on the subject site and separates the proposed nightclub from the west abutting SF-5 zoned single-family residences.

Per the manager of the current business, BC's Bar and Grill, the occupancy rate of the nightclub is posted at 96. Based on the 96 permitted occupants the total parking required for the nightclub is a total of 48 parking spaces; one space per two occupants. The applicant will need show 48 parking spaces on a revised site plan or apply for either a variance, an off-street parking agreement or a combination of the two to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The gravel area can be used for parking if it is paved. The aerial/site plan does not show the required solid screening to separate the site from the west abutting SF-5 zoned single-family residences. The aerial/site plan showed no clear location and screening of dumpsters. The front of the site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the east side of the site, along Broadway Avenue, from overlapping into the right of way where the sidewalk is located.

The development pattern in the area is small LC and GC zoned businesses located along this relatively short portion of Broadway Avenue between I-235 (north side) and the Big Slough South (south side). Car sales lots, a boat sales lot, a motel, a Fire Station, a vacant commercial strip building and one or two vacant lots that appear to have been car sales lots, are all located along the arterial Broadway Avenue. Most of this development was built in the 1950s, followed by development in the 1970s, 1980s, late 1990s and 2011. Fire Station #19 was built in 2002. The west abutting SF-5 zoned single-family residences were mostly built in the late 1940s and up to the early 2000s. The nearest nightclub or drinking establishment is Bill and Mary's (built 1940) located less than a quarter-mile north of the site at 4321 South Broadway Avenue.

CASE HISTORY: The site is located on Lot 11 EXCEPT the North 105 feet and EXCEPT a tract beginning 273 feet North of the Southeast corner, thence West 280 feet, thence South to the Southwest corner, thence Easterly to the Southeast corner, thence North to the point of beginning, Block B; South Broadway Gardens 2nd Addition, which was recorded with the Register of Deeds May 1, 1953. The area the site is located in was annexed into the City between 1961-1970

ADJACENT ZONING AND LAND USE:

NORTH: LC, GC, LI	Car sales lots, vacant commercial strip building, auto repair, I- 235
SOUTH: LC, GC	Car sales lot, motel, Big Slough South
EAST: GC	Fire Station, car sales lots, vacant yard and building, boat sales
WEST: SF-5	Single-Family residences

PUBLIC SERVICES: The site has access off the paved four-lane, arterial Broadway Avenue. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC and GC zoned businesses located along this relatively short portion of Broadway Avenue between I-235 (north side) and the Big Slough South (south side). The proposed nightclub is small enough to be considered a local business. SF-5 zoned single-family residences abut the west side of the site, thus the conditional use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the west abutting single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. The site does not have the required solid screening between the site and the west abutting single-family residences. The site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the west side of the site, along Broadway Avenue, from overlapping into the right of way where the sidewalk would continue from the abutting east and west properties.

The site is located within the “South Wichita – Haysville Area Plan” (SW-HAP). A goal of the SW-HAP is to improve the maintenance of the area’s existing businesses. The subject site’s parking needs to be clearly marked, the gravel area located behind the site’s building needs to be paved and marked for parking as needed to achieve the required total of 48 parking spaces. A rail barrier needs to be put up along the site’s east property line to prevent the site’s parking from encroaching over into the sidewalk along Broadway Avenue. The SW-HAP does not call out attention to the area’s nightclubs, taverns or drinking establishments.

RECOMMENDATION: If approved the conditional use request would bring the site's nightclub/tavern/ drinking establishments into conformance with the UZC. Typically in the older neighborhoods, parking is a critical consideration for recommending approval as is the proximity of a church or place of worship, public park, public or parochial school or residential zoning district. The site may have the required parking spaces, but staff cannot confirm that with the current site plan. If the site does not have the required parking, the applicant will need to apply for either a variance, off-street parking agreements or a combination of the two to meet the UZC's parking standards. It is unknown how the site's past and current history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required 48 parking spaces, locating dumpsters 20 feet from the west abutting SF-5 zoned properties with solid screening with a solid screening gate around the dumpsters, the solid wooden fence located along the site's west property line, and a rail to prevent cars parked on the east side of the site, along Broadway Avenue, from overlapping into the right of way and sidewalk. No outdoor seating, outdoor speakers or outdoor entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
- (2) Improvements on the site, including the restriping of the paved parking lot, the paving and striping for parking on the gravel area behind the nightclub building, solid screening with solid gates around the site's dumpsters, and a metal rail barrier is installed along the site's Broadway Avenue frontage must be completed within 90 days of approval by the appropriate governing body.
- (3) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The development pattern in the area is small LC and GC zoned businesses located along this relatively short portion of Broadway Avenue between I-235 (north side) and the Big Slough South (south side). Car sales lots, a boat sales lot, a motel, a Fire Station, a vacant commercial strip building and a one or two vacant lots that appear to have been car sales lots, are all located along the arterial Broadway Avenue. Most of this development was built in the 1950s, followed by development in the 1970s, 1980s, late 1990s and 2011. Fire Station #19 was built in 2002. The west abutting SF-5 zoned single-family residences were mostly built in the late 1940s up to early 2000s. The nearest nightclub or drinking establishment is Bill and Mary's (built 1940) located less than a quarter-mile north of the site at 4321 South Broadway Avenue.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would bring the site's

nightclub/tavern/ drinking establishment into conformance with the UZC.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 zoned single-family residences abut the west side of the site, thus the conditional use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC and GC zoned businesses located along this relatively short portion of Broadway Avenue between I-235 (north side) and the Big Slough South (south side). The proposed nightclub is small enough to be considered a local business. SF-5 zoned single-family residences abut the west side of the site, thus the conditional use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the west abutting single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. The site does not have the required solid screening between the site and the west abutting single-family residences. The site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the west side of the site, along Broadway Avenue, from overlapping into the right of way where the sidewalk would continue from the abutting east and west properties.

The site is located within the “South Wichita – Haysville Area Plan” (SW-HAP). A goal of the SW-HAP is to improve the maintenance of the area’s existing businesses. The subject site’s parking needs to be clearly marked, the gravel area located behind the site’s building needs to be paved and marked for parking as needed to achieve the required total of 48 parking spaces. A rail barrier needs to be put up along the site’s east property line to prevent the site’s parking from encroaching over into the sidewalk along Broadway Avenue. The SW-HAP does not call out attention to the area’s nightclubs, taverns or drinking establishments.

- (5) **Impact of the proposed development on community facilities:** A possible increase in demand for police services as a result of approval of this request may not be likely as the applicant has stated that the site has for 30 continuous years been either a tavern, drinking establishment or nightclub.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **TODD** seconded the motion, and it carried (10-0).

7. **Case No.: CON2016-00018** – Homer Morgan Revocable Trust, c/o Homer Morgan, trustee (applicant) and Stephen M. Joseph (agent) request a City Conditional Use permit for a Tavern and Drinking Establishment and an Entertainment Establishment and Nightclub in the City within 300 feet of residential zoning on property zoned LC Limited Commercial on property described as:

Lot 1, Block A, English Pub Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area, 801 South Seneca Street, is located on the west side of South Seneca Street and one block south of West Kellogg in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a two-story building and 27 off-street parking spaces (see attached site plan). The County Tax Assessor lists “bar/tavern/lounge” as the current land use, and the business on the property advertises itself as Whiskey Dicks. The site currently has a drinking establishment license allowing the sale of alcohol to exceed 50% of gross sales. A drinking establishment has functioned on the site for many years. The site also has an entertainment establishment license, allowing dancing and live entertainment. The combination of these two licenses makes this site a “nightclub in the city.” Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The current nightclub is permitted in LC zoning, but is legal non-conforming under the UZC because it is within 300 feet of residential zoning. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is adjacent to multi-family residential zoning and single-family residential development to the south and east of the site.

North of the site is the Kellogg Expressway. Property south of the site is zoned MF-29 Multi-family Residential (MF-29) and developed with single-family residences. The site has a screening fence along the south property line. Property east of the site, across Seneca Street, is zoned MF-29 and developed with single-family residences and a vehicle repair shop. Property immediately west of the site, across an alley, is zoned NO Neighborhood Office (NO) and developed with a duplex. A full screening fence does not exist along the west side of the site. Further west is property zoned MF-29 and developed with single-family residences.

CASE HISTORY: The site was platted as the English Pub Addition to Wichita in 1982. The building on the property was built in 1930.

ADJACENT ZONING AND LAND USE:

North: None	Kellogg Expressway
South: MF-29	Single-family residences
East: MF-29	Vehicle repair, single-family residences
West: NO, MF-29	Duplex, single-family residences

PUBLIC SERVICES: South Seneca Street is a paved arterial street with four lanes and a center left turn lane at this location.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 95 people. The applicant's site plan demonstrates 27 parking spaces, 21 fewer than required. The applicant will require some combination of parking reduction through an adjustment or variance which could be combined with a parking agreement with a nearby property to meet the UZC parking requirement. The site meets the UZC screening requirement where it abuts multi-family residential zoning to the south.

RECOMMENDATION: Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Staff notes that the site is screened from nearby residential properties. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall meet the UZC parking requirements by obtaining a parking reduction and/or securing an off-site parking agreement.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is the Kellogg Expressway. Property south of the site is zoned MF-29 Multi-family Residential (MF-29) and developed with single-family residences. The site has a screening fence along the south property line. Property east of the site, across Seneca Street, is zoned MF-29 and developed with single-family residences and a vehicle repair shop. Property immediately west of the site, across an alley, is zoned NO Neighborhood Office (NO) and developed with a duplex. A full screening fence does not exist along the west side of the site. Further west is property zoned MF-29 and developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a drinking establishment. The site could be developed with any permitted uses in the LC district and it could continue to be a legal non-conforming nightclub without the conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 95 people. The applicant's site plan demonstrates 27 parking spaces, 21 fewer than required. The applicant will require some combination of parking reduction through an adjustment or variance which could be combined with a parking agreement with a nearby property to meet the UZC parking requirement. The site meets the UZC screening requirement where it abuts multi-family residential zoning to the south.
6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent than other uses permitted in the LC zoning district.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **TODD** seconded the motion, and it carried (10-0).

8. **Case No.: CON2016-00026** - Homer Morgan Revocable Trust, c/o Homer Morgan, trustee (applicant) and Stephen M. Joseph (agent) request a City Conditional Use permit for a Tavern and Drinking Establishment and an Entertainment Establishment and Nightclub in the City within 300 feet of residential zoning on property zoned LC Limited Commercial zoned property on property described as:

The North 80 feet of lots 1 and 2, Block 1, Martinson's 9th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area, 2201 W. Douglas, is located south of Douglas and three blocks east of Meridian in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a single-story commercial building, and the business advertising itself as The Metro Court occupies the east half of commercial building. Abutting the site to the east is a paved on-street parking in the Athenian right-of-way with enough space for seven (7) on-street parking spaces (see attached site plan). A drinking establishment has functioned on the site for many years, but the business is currently closed. The site currently is in the process of obtaining a drinking establishment license allowing the sale of alcohol to exceed 50% of gross sales. A drinking establishment is permitted in LC zoning, but the site is legal non-conforming under the Unified Zoning Code (UZY) because it is within 300 feet of residential zoning. The conditional use application is proposed so that the site also can attain an entertainment establishment license, allowing dancing and live entertainment. The combination of these two licenses would make this site a "nightclub in the city." Nightclub in the city is defined by the UZY as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZY permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is in a small commercial area surrounded by residential zoning in all directions.

North of the site is zoned SF-5 Single-Family Residential and TF-3 Two-Family Residential and is development with single family residences. The property immediately south of the site is zoned LC Limited Commercial is developed with a single-family residence. Further south of the site are properties zoned SF-5, TF-3, and B Multi-Family Residential that are developed with single-family residences, duplexes, and multi-family residences. Properties east of the site are zoned SF-5 and are developed with single-family residences. The properties immediately west of the site are zoned LC and are developed with commercial uses, a single-family residence, and a multi-family residence. Further west are properties zoned SF-5 and TF-3 that are developed single-family residences duplexes.

CASE HISTORY: The site was platted as the English Pub Addition to Wichita in 1982. The building on the property was built in 1930.

ADJACENT ZONING AND LAND USE:

North: SF-5, TF-3	Single-family residences
South: LC, SF-5, TF-3, B	Single-family residences, duplexes, and multi-family residences
East: SF-5	Single-family residences
West: LC, SF-5, TF-3	Commercial uses, multi-family, duplexes, single-family

PUBLIC SERVICES: Douglas is a paved arterial street with two lanes and on-street parking on both sides of the street at this location.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential" and within the Delano Neighborhood Revitalization Plan Area. The Delano Neighborhood Revitalization Plan has an objective to improve business opportunities along Douglas. The UZC requires one off-street parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 64 people. The building occupies the entire site; therefore, no off-street parking is provided. The applicant's site plan demonstrates seven (7) on-street parking spaces abutting the site in the Athenian right of way. The applicant will require a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.

RECOMMENDATION: Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall meet the UZC parking requirements by obtaining a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is zoned SF-5 Single-Family Residential and TF-3 Two-Family Residential and is development with single family residences. The property immediately south of the site is zoned LC Limited Commercial is developed with a single-family residence. Further south of the site are properties zoned SF-5, TF-3, and B Multi-Family Residential that are developed with single-family residences, duplexes, and multi-family residences. Properties east of the site are zoned SF-5 and are developed with single-family residences. The properties immediately west of the site are zoned LC and are developed with commercial uses, a single-family residence, and a multi-family residence. Further west are properties zoned SF-5 and TF-3 that are developed single-family residences duplexes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a drinking establishment. The site could be developed with any permitted uses in the LC district and it could continue to be a legal non-conforming drinking establishment without the conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential" and within the Delano Neighborhood Revitalization Plan Area. The Delano Neighborhood Revitalization Plan has an object to improve business opportunities along Douglas. The UZC requires one off-street parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 64 people. The building occupies the entire site; therefore, no off-street parking is provided. The applicant's site plan demonstrates seven (7) on-street parking spaces abutting the site in the Athenian right-of-way. The applicant will require a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.

6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other than uses permitted in the LC zoning district.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that DAB IV voted to deny the request and referred Commissioners to the DAB memo dated 8-2-16 which cited neighbors' concerns and various nuisance factors associated with drinking establishments including late night hours, loud music, and general bad behavior of the patrons of the club.

ELLISON asked about the other businesses in the strip center.

LONGNECKER said it is an unusual strip center and he believes parking may be a problem in keeping businesses there.

WARREN questioned the parking variance process and whether you can actually get 64 people in that club. He asked if this were an auto parts store would there be the same parking requirement.

LONGNECKER indicated that the parking variance was a separate process. He added that the Fire Marshall determines the occupancy of an establishment. He said an auto parts store could go at this location "by right" and would have no parking requirement. He said the parking requirement is part of the application for the conditional use.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT said this location is a problem because of the parking. He clarified that the location was closed for about 11 months and reopened three weeks ago as a legal non-conforming use. He said the location does not need a conditional use permit to operate as it is operating now. He said his client is attempting to bring all of the establishments he owns into compliance with City zoning requirements. He said this is a neighborhood bar that has been there for 50 years. He said people don't drive there they walk there. He said they do not think the occupancy number for the establishment is correct and that is why they believe they can provide the necessary parking. He said this is a tiny bar. He said they are going to ask the Fire Department to come back and re-evaluate the occupancy. He said there is parking available behind the building next to the club, and they think they can get a shared parking agreement with that establishment which they believe will be enough parking if the occupancy is set correctly. He said this location does not get any Police calls. He concluded by stating that this is not a destination bar.

ELLISON asked what was located to the south of the club.

LONGNECKER said a residence.

ROSE WRIGHT, 111 SOUTH ATHENIAN said she lived right behind the bar and added that it has been closed for three years. She said she has had people urinating in her yard. She said the bar has been re-opened for just two weeks and she has had a lawn ornament stolen out of her yard. She said she has also had stuff stolen off of her front porch and windshields broken out of her vehicles. She said people

park in her driveway and a lot of other things. She said in the 18 years she has lived there the bar has changed hands several times and was even a strip joint once. She said the loud noise and music keep her awake at night so she can't get up and go to work. She added that there have been numerous Police calls to this location.

VINCENT HANCOCK, 406 SOUTH VINE, PRESIDENT DELANO NEIGHBORHOOD ASSOCIATION said he lives about a half mile from here. He mentioned the Staff Report and the reference to the Delano Neighborhood Revitalization Plan to improve commercial opportunities in the area. He said he agreed that this is an unusual retail cluster and he added that he believes it does not belong in the residential neighborhood. He said the neighborhood complaints about this establishment were so severe that the previous Delano Neighborhood Association President who moved to New Jersey e-mailed him about this case. He said she wrote him that he hasn't heard half of what she heard about this location when she was neighborhood association president. He said the neighbors don't want this being used for its current use as a drinking establishment let alone adding entertainment establishment. He said this is just not an appropriate location for this activity.

JOSEPH reiterated that the location has not been closed for three years. He said there are public records of drinking establishment licenses and leases for that time period. He said if they had been closed that long they couldn't make a conditional use application because they would have lost the "grandfather clause." He said this location is "grandfathered" in and can continue as a drinking establishment until it is vacant for two years. He said they will try to do something to improve the parking.

DENNIS asked what was the plan for getting people from the parking lot to the facility without going through the neighbor's yard.

JOSEPH said his client owns property behind his building and will make a pathway from there to the sidewalk and north to the street.

ELLISON asked if the owner has considered other uses for the property other than a drinking establishment.

JOSEPH said he doubts his client has ever considered any other type of use. He said his client's principal business has been an automatic music company. He said he makes his money by owning taverns and drinking establishments and leasing them machines like juke boxes, pool tables, and those type of things.

DAILEY commented that the applicant should have made arrangements for parking before coming to the Planning Commission. He added just because the establishment had a license doesn't mean it was being operated. He said you can have a license on a car and not drive it. He asked about sales receipts and tax payments for the three-year period.

JOSEPH said the parking and other requirements are conditional on approval of the zoning. He said they are not going to take the time and effort to do those things and spend money until they know they can get the conditional use permit. He said that is the way the zoning process is set up. He said they have the required documentation such as rent payments, machine receipts and leases to prove that the establishment was open for business.

WARREN agreed this is a horrible place for this type of business, but it is there. He asked if the applicant would consider building a fence along the north and west property line. He said that might mitigate some of the neighbors' concerns.

JOSEPH said they are committed to do anything the Commission asks or suggests and added they would accept that as a condition. He said they have already discussed a fence north to south on the shared parking lot.

ELLISON clarified that the applicant would agree to erect a 6-8 foot screening fence.

DAILEY asked the neighbor if the fence along her property would help satisfy her concerns so people wouldn't be cutting across her yard.

WRIGHT asked who she holds responsible if there is damage to her property. She said all this is yet to be seen, she said the applicant doesn't even keep his own yard mowed.

FOSTER asked who owns the shared parking area.

JOSEPH said he doesn't know the owner's name, but pointed out that the strip center has several owners. He also clarified that they will build a fence running north and south behind the neighbor to the south's property so there will be no access to Mrs. Wright's yard in any way.

DENNIS asked if the Commission can legally require the applicant to build a fence on someone else's property.

LONGNECKER said under the UZC you can put screening on abutting properties if the LC zoning is separated from the properties by an alley. He said he believes it is doable with the property owner's consent.

WARREN clarified that the fence would not be on the neighbor's property.

MOTION: To approve subject to staff recommendation with installation of an 8-foot fence on the north and west property lines, and south property line of the neighbor; get permission of the property owner to the south to install a fence on her property; and require a parking agreement with the property owner to the west.

WARREN moved, **TODD** seconded the motion.

FOSTER commented on protecting the neighborhood and the Delano Plan and said the only alternative is to deny the conditional use application so he feels like they have two bad alternatives.

LONGNECKER reiterated that they can continue as a drinking establishment, this application just allows them an entertainment license so they will be in conformance with the UZC.

MILLER STEVENS commented that regardless of what the Planning Commission decides on this application, people are going to be in this establishment drinking. She said today's motion provides some level of protection for the neighbor. She said anything the Commission decides today is not going to get rid of the neighborhood drinking establishment.

ELLISON asked about a time frame maybe six months.

WARREN AMENDED the **MOTION**, with permission of the second **TODD** that the changes in the motion needed to be completed before the applicant can operate as an entertainment establishment.

The **AMENDED MOTION** carried (7-1). **FOSTER** – No.

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9. **Case No.: CON2016-00029** - Michael and Iris McCready (owners/applicants) request a City Conditional Use permit for an Accessory Apartment in SF-5 Single-family Residential zoning on property described as:

Lot 1, Maple Hill Addition, Sedgwick County, Kansas.

BACKGROUND: The applicants request a conditional use for an “accessory apartment” on the southeast corner of West platted SF-5 Single-Family Residential zoned lot located on the southwest corner of Maple Street and South Country View Lane. The site is developed with a 2,208-square foot single-story residence (built 1966) and a large garage. The applicant is converting a portion of the garage into an accessory apartment.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.

CASE HISTORY: The subject property is described as Lot 1, Maple Hill Addition, which was recorded with the Register of Deeds January 5, 1965.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, SF-20, RR	Single-family residences, large tract single-family residences, agricultural land, RV campground
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. The site has access onto Country View Lane, a sand and gravel residential street. Country View Lane intersects with the paved, two-lane arterial Maple Street.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map” shows the site and the area it is located in as “residential.” The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.

RECOMMENDATION: The surrounding area has well-established residential land uses. Based on information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.

2. An approved site plan for the entire lot and an elevation drawing approved by planning staff, indicating dimensions and exterior materials.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The SF-5 zoning is characteristic of the area's zoning. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **TODD** seconded the motion, and it carried (10-0).

- **10. Case No.: CON2016-00036** - John and Kathy Wills (owner/applicant) request a County Conditional Use permit to allow a Bed and Breakfast in the RR Rural Residential zoning district on property described as:

N 630 FT S 1290 FT W 660 FT SW 1/4 EXC W 40 FT FOR RD SBC 15-29-2E, SEDGWICK COUNTY, KANSAS

BACKGROUND: The applicants are requesting a Conditional Use on a site zoned RR Rural Residential to allow a Bed and Breakfast Inn to be operated at their current residence at 9400 S. Greenwich Road. The lot is 9 acres in size and is located on the east side of Greenwich Road 1,080 north of 95th Street South. The residence has four available bedrooms (suites) and the applicants wish to utilize them for the Bed and Breakfast.

The site plan indicates the primary structure built in 1975 and a barn. There is a half-circle gravel drive off Greenwich Road to the front entrance that accesses 93rd Street South. The site has an existing two-car attached garage, a concrete parking apron and an all-weather surface drive that can accommodate parking. According to the UZC, a Bed and Breakfast is an owner-occupied or manager-occupied residential structure that provides rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis. A transient guest is a person who occupies a room for a period of less than one week at a time.

The surrounding properties are all zoned RR and have single family residential with associated agricultural land.

CASE HISTORY: The property is an unplatted nine acre tract described as N 630 FT S 1290 FT W 660 FT SW1/4 EXC W 40 FT FOR RD. SEC 15-29-2E along the north edge of the property has been vacated. The property to the north at 9330 S. Greenwich Road had a Conditional Use approved for an accessory apartment (CON2008-00014).

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Single-family residence, 4.5 acres
SOUTH:	RR	Single-family residences, 8.8 acres
EAST:	RR	Single-family residences, 81.9 acres
WEST:	RR	Agricultural land, 154.4 acres

PUBLIC SERVICES: Access to the site is from S. Greenwich Road and E. 93rd Street. South Greenwich Road is a two-lane arterial with 80 feet of right-of-way and 25 feet of paved width. East 93rd Street is a private, 20-foot wide gravel road. Neither road has recent traffic counts. The site is served by a sewage lagoon and located in Sedgwick County Rural Water District 03.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Small City Urban Growth Area. The Plan's *2035 Urban Growth Areas Map* indicates the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated population growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

The Unified Zoning Code ("UZC") allows Bed and Breakfast as a Conditional Use in the residential zoning districts in compliance with UZC site requirements for parking, screening, lighting, and compatibility setback standards and with Landscape Ordinance requirements. No specific requirements are specified for Bed and Breakfast Inn other than the stipulation that it be an owner-occupied or manager-occupied structure.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the Conditional Use request for a five suite Bed and Breakfast be **APPROVED**, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the MAPD approved site plan.
2. Construction of improvements shall be completed within one year of approval by the appropriate governing body.
3. The applicant shall obtain all inspections, permits and licenses from the County, prior to operating the bed and breakfast inn.
4. The owner or the manager of the bed and breakfast inn shall reside in the primary structure.
5. There shall be four rooms designated for the bed and breakfast business. These rooms shall be shown on a floor plan required for approval by the Metropolitan Area Building and Construction Department (MABCD) for a change of occupancy to bed and breakfast inn within a single-family residential structure.
6. All signage shall conform to the Sedgwick County Sign Code.
7. Parking spaces shall be provided onsite as indicated on the approved site plan. The parking area shall be in compliance with Sedgwick County requirements.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding properties are zoned RR Rural Residential. Large acre lots with single family residences and agricultural land.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR and is developed with a single-family residence. It could continue to be used as a single-family dwelling.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The Conditional Use for a bed and breakfast will encourage continued maintenance of the current structure.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Comprehensive Plan identifies this property as “Small City Urban Growth Area.” The Unified Zoning Code permits bed and breakfast inn as a Conditional Use when it is determined to be an appropriate site for this type of use and when the bed and breakfast inn can meet site development requirements of the Conditional Use and UZC. The conditions of approval are designed to meet these criteria.
5. **Impact of the proposed development on community facilities:** The impact on community facilities should be minimal so long as all required parking is onsite and is adequately paved. No impact is anticipated on other utilities.

KATHY MORGAN, Planning Staff presented the Staff Report.

KATHY WILLS, 9400 SOUTH GREENWICH ROAD said they wanted to use a couple of the bedrooms in the home to generate additional income. She said they are doing some spritzing up with paint and minor repairs but no building additions.

ELLISON asked if they were going to supply meals.

WILLS said the decision to submit the application was a quick one. She has since found out from the State Health Department that if they have fewer than eight guests they don't have to have health inspections if they did provide food. She said they did not intend to prepare meals but would provide kitchen facilities for the client's own use.

FOSTER asked if they would have continued access along 93rd Street.

WILLS said since that blocks their property their neighbors are legally required to provide egress rights.

DENISE EVANS, 11420 E. 95th ST., SOUTH said she lives on the corner and does not want a B&B out there. She said they do not want strangers in the area and that her home has been broken into twice and there have been other break ins in the area. She said several of the surrounding neighbors are totally against this. She also mentioned that a B&B usually offers some type of activity such as walking paths, hunting, fishing, etc., but there is nothing for them to do out there. She said this is not the place for a B&B. She said they just had a large B&B close in the area.

BOB KENNEDY, 9240 S GREENWICH ROAD said he has lived in the area for 22 years. He said he is concerned about transient people in the neighborhood. He said right now this is a quiet, peaceful area and he would like to see it stay that way. He said he can appreciate the need for extra income but these are all well maintained residential properties in the area. He said he does not believe this is the location for a B&B.

WILLS said there may be siblings in from out of town for a family gathering who can't get a room at the Hampton Inn. She said this is a way to provide an alternative without sending people to Wichita. She said they don't expect to have people tramping in at all hours of the day and night, they thought perhaps having guests 6-7 days a month would help them break even. She said she would appreciate the Commissions consent.

WARREN said he doesn't know if they are going to succeed and that is not the Commissions concern that in this country you get the opportunity to try. He said he thinks success will be based on service and prices. He said people who live in the City want to get away from it so the draw will be the open space.

DAILEY asked about the length of time someone can stay at the B&B.

MORGAN said not more than five days. She said someone can't come and live there for a month.

There was discussion concerning an "air B&B".

MORGAN said an Air B&B is not mentioned in the UZC so they would be operating without zoning approval.

MOTION: To approve subject to staff recommendation.

WARREN moved, **TODD** seconded the motion, and it carried (8-0).

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- 11. Case No.: CON2016-00037** - Nicoleta and Eugene Vasilescu (owners) request a County Conditional Use permit for an Accessory Apartment in SF-20 Single-family Residential zoning on property described as:

Beginning at a point on the East line of the Southeast Quarter of Section 21, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, and 493.43 feet South of the Northeast corner of the Southeast Quarter of said Section 21; thence South along the East line of the Southeast Quarter of said Section 21, 15.0 feet; thence West parallel with the North line of the Southeast Quarter of said Section 21, a distance of 330.0 feet; thence South parallel with the East line of the Southeast Quarter of said Section 21, a distance of 154.0 feet; thence West parallel with the North line of the Southeast Quarter of said Section 21, a distance of 243.88 feet; thence North parallel with the East line of the Southeast Quarter of said Section 21, a distance of 298.0 feet; thence East parallel with the North line of the Southeast Quarter of Section 21, 298.88 feet; thence South parallel with the East line of the Southeast Quarter of said Section 21, 129.0 feet; thence East 284.9 feet to the point of beginning.

BACKGROUND: The applicant is requesting a Conditional Use for an accessory apartment to be on the site. The unplatted property is zoned SF-20 Single-Family Residential and is approximately 1.9 acres. It is currently developed with a residential designed manufactured single-family home, three sheds, a barn and well house. The site is serviced by a septic system. The subject site is located on the west side of Ridge Road approximately 0.4 mile north of 45th Street North. The Sedgwick County site is not located within any Urban Area of Influence.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The surrounding properties to the north, west and south are zoned SF-20. The uses include single-family residences. Across Ridge Road to the east is a single-family residential subdivision zoned SF-20

The applicant submitted the attached site plan showing the location of existing structures, well and the septic system. The site plan also identifies the location of the new 45-foot X 36-foot accessory apartment with a 25-foot X 30-foot attached garage.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family residence on 2.6 acres
SOUTH:	SF-20	Single-family residence on 5 acres
WEST:	SF-20	Single-family residence on 9 acres; undeveloped 16 acres
EAST:	SF-20	Single family residences on 0.5 and one-acre lots.

PUBLIC SERVICES: Ridge Road is a four-lane paved arterial street. The subject site has access to Ridge from a 230-foot long single lane gravel drive. The property is served by septic system and an on-site water well.

CONFORMANCE TO PLANS/POLICIES: The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Wichita Urban Growth Area.

This category identifies Wichita’s urban fringe areas that have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, with the following conditions:

1. The accessory apartment shall remain accessory to and under the same ownership as the principal single-family residence (located at 4917 N. Ridge Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.

2. The water and sewer service provided to the accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system.
3. The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the accessory apartment.
4. Development and maintenance of the site shall be in conformance with the approved site plan.
5. If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The County subject site is located in an SF-20 zoned area with lots ranging from +/- 0.5 acre to 16 acres. Development is a mix of large lot single-family residential.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned SF-20 which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Wichita Urban Growth Area. This category identifies Wichita’s urban fringe areas that have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. A Conditional Use application/request is required for consideration of an accessory apartment in the SF-20 zoning district.

5. **Impact of the proposed development on community facilities:** Community facilities are the public streets in the neighborhood, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the neighborhood.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **TODD** seconded the motion, and it carried (10-0).

- 12. **Case No.: CON2016-00038** - Metal Arts Properties, LLC (owners) and Alissa Huibsch (applicant) request a City Conditional Use permit for a Group Residence Limited in SF-5 Single-family Residential zoning for property described as:

Lot 1 except the East 60 feet, Schlender Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a conditional use to operate a group residence, limited, for nine male residents on the SF-5 Single-Family Residential (SF-5) zoned site located on the southeast corner of West 31st Street North and North Hood Avenue. Per the Unified Zoning Code (UZC, Sec.II-B.5.k), a group residence, limited, is a residential facility occupied by six to 15 persons providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect.

The UZC requires the consideration of a conditional use for a group residence, limited in the SF-5 zoning district and in all residential zoning districts with one exception. A group residence, limited, is allowed by right in the B Multi-Family Residential (B), GO General Office (GO), NR Neighborhood Retail (NR), LC Limited Commercial (LC), GC General Commercial (GC), CBD Central Business District (CBD) and the AFB Air Force Base (AFB) zoning districts. The term group residence does not include Group Homes or Correctional Placement Residences; UZC, Sec.II-B.5.i and Sec.II-B.5.k. A group of not more than five persons (excluding servants) not related by blood or marriage, may live together as a single housekeeping unit in a dwelling unit/ single-family residence; UZC Sec.II.B.4.n.

The applicant has stated that the group residence will be an Oxford House. Per the Oxford House web site:

Oxford House is a concept in recovery from drug and alcohol addiction. In its simplest form, an Oxford House describes a democratically run, self-supporting and drug free home. Oxford House, Inc., is the national, non-profit umbrella organization which provides the network connecting all Oxford Houses and allocates resources to duplicate the Oxford House concept where needs arise. The number of residents in a House may range from six to fifteen. There are houses for men, houses for women, and houses which accept women with children. A house with a mix of men and women is not allowed. There are no resident counselors in an Oxford House. A recovering individual can live in an Oxford

House for as long as he or she does not drink alcohol, does not use drugs, and pays an equal share of the house expenses. The average stay is about a year, but many residents stay three, four, or more years. There is no pressure on anyone in good standing to leave. While Oxford House is not affiliated with Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), its members realize that recovery from alcoholism and drug addiction can only be assured by the changing of their lifestyle through full participation in AA and NA. The Oxford House concept in recovery was established in 1975.

The site is developed with an eight bedroom, four bathroom, 2,086-square foot single-story, brick and lap siding single-family residence (built 1983). The applicant has stated that there will be one resident per bedroom in seven bedrooms and one bedroom with two residents. On-site parking is provided by what looks like a double-wide, paved driveway and a gravel parking lot located on the west side of the site, along Hood Avenue. No size was given on the site plan for the west gravel parking area, which may be encroaching into the Hood Avenue right of way. The UZC requires one parking space per bedroom for a group residence. The proposed site requires eight parking spaces. Because the site plan does not give the size of the parking areas and does not confirm that the west parking area is not encroaching into Hood Avenue, staff cannot confirm that the required on-site parking is provided.

The site is located in a large area, from 29th Street North to 37th Street North, from the west side of the Little Arkansas River to Arkansas Avenue, of almost unbroken SF-5 zoned single-family residences. The exceptions are scattered LC zoned properties located along the arterials 29th Street North and Arkansas Avenue, maybe four TF-3 zoned properties, a B zoned property and a group of three properties zoned GC and GO. Staff found no apparent conditional uses located in the area's SF-5 zoned properties. SF-5 zoned single-family residences abut the east and south sides of the corner site. SF-5 zoned single-family residences are located adjacent to the west, across Hood Avenue, and north, across 31st Street North, sides of the corner site. The appraiser's link shows the single-family residences located closest to the site being built over a wide time frame, from 1937-1992.

CASE HISTORY: The site is located on Lot 1 except the east 60 feet, Schlender Addition, which was recorded with the Register of Deeds on April 2, 1982. The area was annexed into the City between 1961-1970.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The site has access onto Hood Avenue, a sand and gravel residential street and 31st Street North a paved, two-lane, residential street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses,

apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita.

RECOMMENDATION: The intent of the proposed group residence, limited is provide peer group assistance for the recovery from drug and/or alcohol addiction based on and supported by a national organization, Oxford House. The UZC allows consideration of a group residence, limited as a conditional use in all of the residential zoning districts with the exception of the B zoning district, which allows it by right. The proposed site provides a residence for a maximum of nine adult men recovering from drug and/or alcohol addiction located in, as previously stated, a large mostly unbroken neighborhood of SF-5 zoned single-family residences. The Oxford House web site states that the average stay in such a residence is about a year, but many residents stay three, four, or more years. Based on this length of residency, the proposed facility's residential population is more transient in its nature, which would seem to be like the residency of multi-family development and not (as usually argued) a single-family neighborhood where the length of residency may be longer based on the ownership living on-site. Multi-Family residential and non-residential zoning would seem to be a more appropriate zoning for the proposed use. A neighborhood with a more diverse zoning pattern would also be a more appropriate neighborhood than the one the proposed site is located in. Based upon the information available prior to the public hearings, planning staff recommends that the request for a conditional use be **DENIED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a large area, from 29th Street North to 37th Street North, from the west side of the Little Arkansas River to Arkansas Avenue, of almost unbroken SF-5 zoned single-family residences. The exceptions are scattered LC zoned properties located along the arterial 29th Street North and Arkansas Avenue, maybe four TF-3 zoned properties, a B zoned property and a group of three properties zoned GC and GO. Staff found no apparent conditional uses located in the area's the SF-5 zoned properties. SF-5 zoned single-family residences abut the east and south sides of the corner site. SF-5 zoned single-family residences are located adjacent to the west, across Hood Avenue, and north, across 31st Street North, sides of the corner site. The appraiser's link shows the single-family residences located closest to the site being built over a wide time frame, from 1937-1992.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which is meant to accommodate low to moderate-density, single-family residential development and complementary land uses within the City of Wichita. The SF-5 zoned site could be developed as single-family by right.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** If approved the request would introduce a new use to the SF-5 zoned single-family residential neighborhood. Approval of the proposed conditional use would permit the site to become group residence, limited, specifically a facility that provides peer group assistance for the recovery from drug and/or alcohol addiction based on and supported by a national organization, Oxford House. The average stay in such a residence is about a year, but many

residents stay three, four, or more years. Based on this length of residency, the proposed facility's population is more transient in its nature, which would seem to be like the residency of multi-family development and not (as usually argued) a single-family neighborhood where the length of residency may be longer based on the ownership living on-site. Multi-Family residential and non-residential zoning would seem to be a more appropriate zoning for the proposed use. A neighborhood with a more diverse zoning pattern would also be a more appropriate neighborhood than the one the proposed site is located in.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. The site is located outside of the established central area of Wichita.

The UZC classifies a group residence, limited, as a residential use. The UZC requires consideration and approval of a conditional use to operate a group residence, limited, on the SF-5 zoned land.

- (5) **Impact of the proposed development on community facilities:** Approval of this request will have a minimal impact on community facilities.

However if the MAPC feels the conditional use is appropriate, staff recommends the following conditions, with the MAPC making findings for their approval:

- (1) The group residence, limited, is for a maximum of nine adult males for recovery from drug and alcohol addiction under the concept and affiliation of Oxford House, Inc.
- (2) Prior to occupancy the residence must be approved by the Wichita Fire Department, the Metropolitan Area Building and Construction Department and any other applicable federal, state and local standards.
- (3) The site will developed with an approved revised site plan. The site plan shall include, but not be limited to, an on-site paved parking area that conforms to the UZC's parking standards for one parking space per resident. The site plan must be submitted for review within 30-days of approval by the appropriate governing body.
- (4) The applicant shall obtain all required federal, state, local and other applicable permits and inspections.
- (5) The site shall be developed as shown on the approved site plan, within 60 days of approval by the appropriate governing body or the conditional use shall be declared null and void.

- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said an application for a Group Residence was what was submitted by the applicant. He referred to a handout from an attorney that staff received earlier this afternoon, which he said he would have the City Attorney deal with. He reported that the DAB recommended denial at the 8-1-16 meeting. He added that unfortunately the applicant did not attend that meeting and could not participate in the dialogue.

SEAN HIPPS, METAL ARTS PROPERTIES indicated that they were not aware of the meeting on Monday and did not make a conscious decision not to attend and would be happy to explain what they are requesting. He indicated that they were passing out a packet to address questions they have become aware of. He said he had a letter from the City dated 2011 that indicates they are allowed eight residents. He said they would like to increase that to nine residents. He gave a brief background stating that they purchased this Oxford House about two years ago. He said he believes they need more Oxford Houses and every room is important to them. He clarified that he did not speak on behalf of Oxford House, just as a representative of Metal Arts Properties. He mentioned that the City recommended that they go through this process. He said he knows an alumni from this house who is now a taxpayer and a contributing member of the community and if this room were not available, maybe that would not be the case.

DUSTIN GRAY, METAL ARTS PROPERTIES, 14620 WEST VALLEY HI COURT said Metal Arts is a family owned business. He mentioned that he was an alumni of Wedgwood Oxford House and believes he owes them his life which is why Metal Arts Properties stepped in and bought the location when they heard they were in trouble. He briefly explained how Oxford Houses were run and that they were not a half-way house but self-governed and more like a family. He also clarified that he could not speak for Oxford House. He said they are here because the City asked them to make the application. He said this Oxford House has been in operation for 21 years. He said it has been a positive influence on the neighborhood and one of the nicest homes in the neighborhood. He said there are seven members currently residing in the house. He briefly reviewed a diagram of the bedrooms and bathrooms in the house and said it is spacious and accommodating. He said parking has never been an issue and that there were seven parking spaces that are rarely full because some of the residents of the House may not have a driver's license or a car. He said other homes in the neighborhood use the street for parking.

GRAY said people get scared when they hear the terms addict and alcoholic but he said these diseases affect all classes, races and genders from the top of the social order to the bottom. He said Oxford Houses have proven to be a good resource for people in recovery and have an extremely high success rate. He said he was the owner of Metal Arts and employed over 30 people so he is giving back to the community. He said they would like the nine beds so they can help more people.

HIPPS requested that the application be approved without any of the staff recommendations except that they will never go above nine occupants.

MILLER STEVENS asked what led to the City's request that they submit this application.

GRAY said he believed it was fallout over an Oxford House located in College Hill.

MILLER STEVENS clarified then they have had more than eight people in the house prior to this.

GRAY said yes they have had nine beds for well over 12 years, but that doesn't mean there are always nine members in the house. He explained the interview process and requirement for 100% sobriety and indicated that if residents drink or use drugs they are gone. He said Oxford Houses have a no tolerance policy.

MILLER STEVENS said so Oxford House has no permit for a group residence because they are just renting the house from Metal Arts.

GRAY said that was correct and added that he used to sit in on meetings at the house to give advice, etc., but since he has become a landlord, that is a conflict of interest. He referred to the letter from the Oxford lawyer referencing the Fair Housing Act and that Oxford Houses are treated as family dwellings because addicts are considered disabled.

WARREN asked how many Oxford Houses are located in Wichita.

GRAY said he was not sure but he thinks about 29 houses. He added that Oxford House had their annual convention in Wichita several years ago.

JOHN AGNEW, 116 N. MARLEN, HAYSVILLE said he was a member of the Oxford House Alumni Association. He said he was present to ask the Commission to consider letting the location have nine members. He said some of the reasons are economics; how many people does it take to run the house in addition to policing each other. He said making it affordable for someone to live in an Oxford House is part of the equation. He said they want to provide low cost housing in nice neighborhoods for people seeking recovery. He said Oxford houses have always had to face the issue of "NIMBY" "Not In My Back Yard." But they want to blend in with the neighborhood, not stick out like a sore thumb.

AGNEW gave a brief over view of the success rate of Oxford Houses (65%-87%), services offered for both men and women and women with children. He said some of the homes are located in zoning that allows more than eight individuals. He commented that the Staff Report refers to the transient nature of Oxford House residents, but said some people stay at a House between 4-5 years. He said as Co-Chair of one of the Governor's Behavioral Health Subcommittees and working with Substance Abuse of Kansas he can say that the City and State use Oxford Houses as a resource. He referenced the City's Drug Court and Federal and State Departments of Community Corrections. He concluded by asking the Commission to allow nine residents at this location.

VERONICA CASADOS, 3257 HOOD COURT said she lives one and A half blocks from this site. She commented that the community didn't know about this proposal until last Wednesday when the sign was posted about the rezoning with a number of calls. She said they quickly gathered some residents in the neighborhood to attend the DAB meeting held Monday. She said the neighborhood was under the

impression that there were only five people in the house and most of the community is supportive of that. She said their biggest concern is raising this to nine people because they feel it becomes a density issue not only for the neighborhood but she questioned whether having nine people in a 2,000 square foot house is a supportive living environment, especially nine people who are struggling with addiction. She said five residents is fine with the neighborhood, nine residents is not.

DAILEY asked if there have already been between 8-9 people at the location and things have been going okay what is her objection.

CASADOS said they don't know how many people have been living there, they have heard many different things. She said it is evident there is more activity at the house and more parking in the street.

REVEREND BRIAN HITCHCOCK, 1055 WEST 35TH STREET NORTH said he lives at the Wedgwood Oxford House and in the last 18 months he has been there the only time the police came was to check on the welfare of one of the residents. He said the house has always had 8-9 members. He said this facility has saved his life. He said he believes the application should be approved. He said Oxford houses are needed in this town because they need more beds. He briefly reviewed the inner workings of the Oxford House.

PATRICK _____, 1055 WEST 35TH STREET NORTH said he also resides at the Wedgwood Oxford House. He briefly reviewed the inner workings of the house referencing the interview process. He said they are a tightknit group, like brothers living together who are serious about recovery. He asked that the Commission allow them nine people because they need the beds in Wichita.

VICTOR _____, 2709 NORTH LORRAINE said he has been involved with Oxford Houses for about 15 years in various capacities as well as serving on several state wide committees on drug abuse and recovery. He said he also lived in an Oxford House for a little over two years and if it was not for that, he didn't know where he'd be. He briefly reviewed his experience during his stay at the facility reuniting with his family and children. He said nine people can provide each other with rehabilitation support and help each other get their lives back on track. He said Oxford Houses are self-supporting and don't live off the government. He gave several statistics regarding Oxford House participant's success rates, community involvement and becoming productive members of society. He said they would like to come to a reasonable solution and let them operate with nine members as they have been doing in the past.

MOTION: To approve subject to the alternative staff recommendation for a total of nine adult males.

WARREN moved, **TODD** seconded the motion.

DENNIS asked what was staff's reason for recommending denial of the application.

LONGNECKER said staff did not feel the density was appropriate for this Single-family neighborhood; however, he referred to the alternative staff recommendations listed on page five of the Staff Report if the Commission felt this was an appropriate use.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY clarified that this was not a vote on Oxford Houses and he applauds what they do. He said a number of years ago the City received a complaint that there were 12-15 people living in a home in single-family zoning. He said that was in violation of the UZC. He said; however, under the Fair Housing Act and American with Disabilities Act (ADA) there has to be reasonable accommodation of someone with a disability. He said former alcoholics and/or drug abusers fall under the ADA. He said in order to make a reasonable accommodation the City looked at establishment of a “group home” as defined in State Statute. He briefly reviewed those requirements which were up to eight residents and two staff members. He added that Oxford House has no professional staffing. He mentioned case law Oxford House vs. the City of St. Louis and said financial considerations do not have to be taken into account. He said the house can have eight residents “by right” but if they want to go beyond that, the conditional use permit for a group home is required. He said this hearing is not a judgement on Oxford Houses or what they do this hearing is about current City Policy.

DAILEY clarified that Commissioner Warren was excluding the six conditions listed on page 5 of the Staff Report.

WARREN indicated that was correct and said he feels that they are just “bureaucratic pile ons.”

DENNIS said he didn’t have a problem with those other requirements and cannot support the motion as it stands. He said he would support the motion if everything recommended by staff was included.

The **MOTION** carried (6-2). **DAILEY** and **DENNIS** – No.

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13. **Case No.: CUP2016-00024** - Kellogg and West, LLC (owners/applicants) and Kim Edgington (agent) City CUP major amendment to DP-332 to expand the CUP land area and amend signage regulations on property described as:

Lots 8, 9 and 10, except that part taken for Highway in Condemnation Case 84C-2867, Block 1, Eureka Gardens, Wichita, Sedgwick County, Kansas.

CHAIR NEUGENT announced that the item was deferred.

NON-PUBLIC HEARING ITEMS

VICE CHAIR DENNIS said on behalf of the entire Planning Commission he wanted to express his deepest condolences to Director Dale Miller and his entire family on the loss of both his son and mother.

DENNIS commented that he has had the privilege of serving on the Planning Commission for nine years, originally appointed by Jeff Longwell and subsequently by Bryan Frye. He said he has learned a tremendous amount from Planning Staff who he said have provided outstanding administrative support to the Commission. He said he wanted to thank his fellow Commissioners and said it has been an honor and a privilege to serve with each and every one of them and a great experience.

The Metropolitan Area Planning Commission adjourned at 6:20 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission